IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 9562 of 2006(L)

PETITIONER:

V.LEELAVATHY AMMA,
D/O.LAKSHMI AMMA, 72 YEARS,
HOUSE WIFE, VENGAYIL MADAM,
KOOTTUR POST, VIA.MATHAMANGALAM,
KANNUR DISTRICT.

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

RESPONDENTS:

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1. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION,
PAZHAYANGADI, KANNUR.

2. ADDITIONAL DISTRICT MAGISTRATE,
KANNUR.

3. DISTRICT COLLECTOR & DISTRICT MAGISTRATE
KANNUR.

4. SMITHA NAMBIAR,
VENGAYIL MADAM, KOOTTUR POST,
VIA.MATHAMANGALAM, KANNUR DISTRICT.

BY ADV. SRI.H.BADARUDDIN
SRI.C.A.JOSEPH
SRI.P.P.THAJUDEEN (FOR R1)
GOVT. PLEADER, SRI.P.K.RAVIKRISHNAN (FOR R2 & R3)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 9562/2006/L

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF ORDER NO.A6.53038/05 BY ADDL. DISTRICT MAGISTRATE, KANNUR DATED 22.3.2006.

EXT. P2: COPY OF A SKETCH SHOWING THE POSITION OF THE PROPERTIES OF THE PETITIONER AND 4TH RESPONDENT AND THE ELECTRICITY SERVICE LINE STRUNG.

EXT. P3: COPY OF JUDGMENT IN O.P. NO.12744 OF 2002(P) ON THE FILE OF THE HON'BLE HIGH COURT OF KERALA, DATED 11.07.2002.

/TRUE COPY/

P.A. TO JUDGE

JP

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.9562 OF 2006

Dated this the 22nd day of November, 2007

JUDGMENT

Service of notice on this writ petition is complete and therefore, the matter has been listed today giving opportunity to the respondents to place counter affidavits, if they so desire. But, no counter affidavit is on record.

2. There is no dispute that Ext.P2 is a sketch of the alignment in question. It appears that a larger parcel of land was sliced to provide a way to the property of the 4th respondent. This essentially resulted in the petitioner holding two pieces of land on either side of that way. While it may be true that the petitioner enjoys electrical energy through the line drawn from A to B, i.e., through her property, the 4th respondent could also have an electric line through the way as given to her independently. After having a way, essentially cutting through the property of the petitioner, it is wholly unjust for the 4th respondent to have an electric line over the property, which

belongs exclusively to the petitioner, especially when the 4th respondent has independent free access and the distance is essentially the same or even lesser.

In the aforesaid circumstances, the impugned Ext.P1 is quashed and it is directed that the line to the premises of the 4th respondent shall be laid through the pathway going to her property from the main road and expenditure for such shifting shall be spent by the 4th respondent. The writ petition is allowed as above. It is directed that this judgment shall be complied with in a period of three weeks.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.